

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL PAUL FOUST,

Petitioner,

v.

SUPERINTENDENT BROOKS, et al.,

Respondents.

Civil Action No. 04-176 Erie

**MEMORANDUM ORDER**

This habeas corpus action was received by the Clerk of Court on June 23, 2004, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 5], filed on July 6, 2006, recommended that Petitioner's Petition [Doc. No. 1] be dismissed and that a certificate of appealability be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Petitioner by certified mail and on Respondents. Petitioner filed objections on July 18, 2006 [Doc. No. 6]. After de novo review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 24<sup>th</sup> day of July, 2006;

IT IS HEREBY ORDERED that the Petitioner's Petition for Writ of Habeas Corpus [Doc. No. 1] is DISMISSED and a certificate of appealability is DENIED.

The Report and Recommendation [Doc. No. 5] of Magistrate Judge Baxter, filed on July 6, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge